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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,051	12/29/2004	Joachim Berg	Ruff 53	5080
23474	7590	06/28/2006	EXAMINER	
FLYNN THIEL BOUTELL & TANIS, P.C.			SPAHN, GAY	
2026 RAMBLING ROAD			ART UNIT	
KALAMAZOO, MI 49008-1631			PAPER NUMBER	
			3673	

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/520,051		BERG, JOACHIM	
	Examiner		Art Unit	
	Gay Ann Spahn		3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7, drawn to a supporting device, classified in class 482, subclass 142.
- II. Claim 10, drawn to an add-on unit, classified in class 108, subclass 69.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the claimed combination does not require a separate add-on unit with at least one connection element. The subcombination has separate utility such as can be used by itself, for example, as a cutting board.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Election/Restrictions - Election of Species Requirement

This application contains claims directed to TWO GROUPS OF SPECIES from each of which Applicant must elect a single species (and subspecies, if appropriate) as follows:

The FIRST GROUP OF SPECIES (i.e., species of home or workplace item or leisure item) from which Applicant must elect a single species is:

GROUP IX, SPECIES I - Figs. 15-17, 21-23, and 26-27 (i.e., table);

GROUP IX, SPECIES II - Figs. 24-25 (i.e., chair w/ backrest convertible to bench);

GROUP IX, SPECIES III - Fig. 11 (i.e., combination sofa/bed)

GROUP IX, SPECIES IV - Figs. 8-9 (i.e., lighting object)

OR

GROUP IX, SPECIES V - Figs. 4-6 and 10 (i.e., bench).

The species are independent or distinct because they are mutually exclusive as described above.

If Applicant elects SPECIES V from GROUP I above, then Applicant must further elect a single SUBSPECIES (i.e., subspecies as to type of leg/support for support unit) from the following:

SUBSPECIES I - Fig. 4 (i.e., straight legs);

SUBSPECIES II - Fig. 5 (i.e., curved legs);

SUBSPECIES III - Fig. 6 (i.e., ironing board type legs);

OR

SUBSPECIES V - Fig. 10 (i.e., support foot).

The species are independent or distinct because they are mutually exclusive as described above.

The SECOND GROUP OF SPECIES (i.e., species as to how recess formed - one-piece support unit vs. two-piece support unit) from which Applicant must elect a single species is:

GROUP II, SPECIES I - Figs. 1-6;

GROUP II, SPECIES II - Fig. 12;

GROUP II, SPECIES III - Fig. 13;

GROUP II, SPECIES IV - Fig. 14;

GROUP II, SPECIES V - Fig. 15;

GROUP II, SPECIES VI - Fig. 16;

GROUP II, SPECIES VII - Fig. 17;

GROUP II, SPECIES VIII - Fig. 18;

GROUP II, SPECIES IX - Fig. 19;

OR

GROUP II, SPECIES X - Fig. 20;

The species are independent or distinct because they are mutually exclusive.

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If Applicant elects SPECIES I from GROUP II above, then Applicant must further elect a single SUBSPECIES (i.e., subspecies as to shape of recess) from the following:

SUBSPECIES I - Figs. 1 (width-wise elongated U-shaped recess);

SUBSPECIES II - Fig. 3a (triangular-shaped recess);

SUBSPECIES III - Fig. 3b (square/rectangular-shaped recess);

SUBSPECIES IV - Fig. 3c (length-wise elongated U-shaped recess);

SUBSPECIES V - Fig. 3d (baseball homeplate-shaped recess);

OR

SUBSPECIES VI - Fig. 3e, 13 (irregular-shaped recess 3f).

The species are independent or distinct because the shapes of the recesses are all mutually exclusive.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species from each of the TWO GROUPS (and SUBSPECIES, if appropriate) for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, independent claim 1 appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable on each elected SPECIES (and SUBSPECIES, if appropriate), including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

A telephone call was not made to request an oral election to the above restriction requirement due to the complexity of the election.

Conclusion

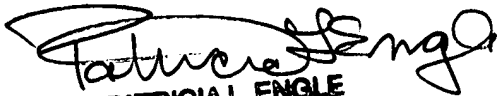
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Thursday, 8:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3673

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

^{GAB}
Gay Ann Spahn, Patent Examiner
June 25, 2006


PATRICIA L. ENGLE
PRIMARY EXAMINER
Art Unit 3673